

## **Remarks**

### **Restriction Requirement**

Applicants elect group I, species B claims for examination. Claims 5, 10 and 11 have accordingly been cancelled.

### **Rejections under 35 U.S.C. Section 112**

Claims 8 and 12 stand rejected under 35 U.S.C. Section 112, second paragraph. Claim 8 has been amended to depend from claim 3. Claim 12 has been amended to replace the offending language "should be" with --is--. Applicants urge that claims 8 and 12 are now compliant with Section 112.

### **Statement Under MPEP Section 706.02(I)(2)(II)**

Application 10/764,778 and Patent No. 6,901,876 (Serial No. 09/858,390; Publication 2002/0171175) were at the time the invention of Application 10/764,778 was made, owned by The Goodyear Tire & Rubber Company.

### **Excluded Prior Art**

Applicants note that Ainsworth, U.S. Publication 2002/0171175 (now U.S. Patent 6,901,876 issued June 28, 2005) is properly excluded as prior art under 35 U.S.C. Section 103(c) against the present application (provisional filing date February 7, 2003 and application filing date January 26, 2004). Applicants have included a Statement Under MPEP Section 706.02(I)(2)(II) as sufficient evidence to exclude Ainsworth as prior art.

### **Rejections Under 35 U.S.C. Section 103**

Claims 1-4, 6-9, 12-15 and 18-19 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Ainsworth et al., (U.S. Patent No. 6,901,876; hereinafter "Ainsworth") or Admitted Prior Art in view of at least one of Kemper (U.S. Patent No. 5,683,773; hereinafter "Kemper") or Bhattacharyya (U.S. Patent No. 6,142,189; hereinafter "Bhattacharyya") and further in view of Pelton (U.S. Patent No. 5,654,099; hereinafter "Pelton"). Applicants note that

Ainsworth is properly excluded as prior art as noted herein. To the extent the amended claims are deemed unpatentable over the cited art, these rejections are traversed.

Claim 1 has been amended to recite that the hose assembly comprises an innermost layer of chlorinated polyethylene rubber. Pelton, cited for its teaching regarding the use of chlorosulfonated polyethylene in an RFL treatment for polyester, teaches only that such a treated polyester is suitable for use with a chlorosulfonated polyethylene (CSM) or alkylated chlorosulfonated (ACSM) rubber matrix (column 3, lines 20-27). Nowhere does Pelton nor any of the other cited art teach nor make obvious the use of a CSM/RFL treated polyester reinforcement with a chlorinated polyethylene rubber, as recited in the present claims. The proposed combination of prior art does not result in the present claims, as no teaching or suggestion exists for the use of a CSM/RFL treated polyester reinforcement with a chlorinated polyethylene rubber layer in a method for making a hose. Applicants urge therefore that the amended claims are patentable over the cited art.

#### **New Claims**

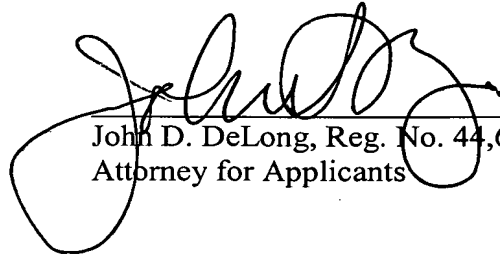
Claims 20 and 21 have been added to better define what Applicants regard as the invention. Applicants urge that claims 20 and 21 are patentable over the cited art; as noted earlier neither Pelton nor any of the other cited art alone or in combination teach nor make obvious a method of making a hose having CSM/RFL treated polyester reinforcement with a chlorinated polyethylene rubber layer. Moreover, a combination of the cited art at a minimum would require hindsight reconstruction of the claims based on the teaching of the present specification. Applicants urge that the claims are fully patentable over the cited art.

**Conclusion**

Applicants urge that the amended claims are now fully patentable over the cited art.

Applicants respectfully request allowance of all claims.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'John D. DeLong', is written over a horizontal line.

John D. DeLong, Reg. No. 44,648  
Attorney for Applicants

The Goodyear Tire & Rubber Company  
Intellectual Property Law Department 823  
1144 East Market Street  
Akron, Ohio 44316-0001  
Telephone: (330) 796-8757